

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Penn Engineering & Manufacturing Corp.,	:	
	:	
	:	
Plaintiff,	:	
	:	
v.	:	No.: 15-cv-06277-GJP
	:	
Pemco Hardware, Inc., Dongguan	:	
Fenggang Pemco Hardware Factory,	:	
And Shenzen Pemco Fastening Systems	:	
Co., Ltd.,	:	
	:	
Defendants.	:	

[Revised Proposed] Preliminary Injunction Order

Upon due consideration of Plaintiff's complaint, motion for preliminary injunction, and supporting memorandum of law, exhibits and declarations of Leon Attarian submitted therewith, and under the provisions of Fed. R. Civ. P. 65 and 15 U.S.C. §1116;

And it appearing to the Court that Penn Engineering and Manufacturing Corp. ("PennEngineering") manufactures and sells fasteners, fastener components, and fastener installation equipment using the "PEM Family Marks" identified in Schedule A, and that PennEngineering is the owner of valid rights in and to the PEM Family Marks for use in connection with all of the goods and services recited in Schedule A;

And it appearing that PennEngineering manufactures and sells fasteners, fastener components and fastener installation equipment using PennEngineering's "Six Other Trademarks" identified in Schedule B and that PennEngineering is the owner of valid rights in and to the Six Other Trademarks in connection with all of the specific goods and services recited in Schedule B. PennEngineering's fasteners, fastener components and fastener installation

equipment, including all of the goods and services recited in Schedules A and B are collectively referred to as the “Protected Goods and Services”;

And it appearing that Pemco Hardware, Inc., Dongguan Fenggang Pemco Hardware Factory, and Shenzen Pemco Fastening Systems Co., Ltd. (“Defendants”) are selling, offering for sale, distributing and advertising fasteners and fastener components using the “PEMCO Infringing Marks” and the “Six Other Infringing Marks” identified in Schedule C without authorization from PennEngineering;

And it appearing that Defendants are using the PEMCO Infringing Marks and Six Other Infringing Marks as metatags, keywords, and/or searchable text in their domain names and websites in an unlawful manner;

And it appearing that Defendants’ activities constitute trademark infringement, false designation of origin, counterfeiting, and dilution under the Lanham Act, and common law trademark infringement and unfair competition, and that unless Defendants are enjoined from the unauthorized use of the PEMCO Infringing Marks and the Six Other Infringing Marks, and any other confusingly similar variations thereof, PennEngineering will suffer immediate and irreparable injury and harm;

And it appearing that PennEngineering is the owner of valid rights in and to the “PEM Patents” identified in Schedule D;

And it appearing that Defendants are making, using, offering for sale, and/or selling in the United States, and/or importing into the United States the “PEMCO Infringing Products” identified in Schedule D without authorization from PennEngineering; and,

And it appearing that Defendants’ activities constitute patent infringement under 35 U.S.C. § 271(a),(b) and (c), and unless Defendants are enjoined from making, using, offering for

sale, and selling in the United States, and importing into the United States, the PEMCO Infringing Products, and any other infringing products, PennEngineering will suffer immediate and irreparable injury and harm;

Trademark Infringement & False Description and Designation of Origin

IT IS HEREBY ORDERED that Defendants, their respective officers, agents, servants, employees, attorneys, and any of their successors and assigns, and all persons, firms and corporations, including subsidiaries of related companies, acting in concert with Defendants, are preliminarily enjoined from:

1. Using the PEMCO Infringing Marks and Six Other Infringing Marks in any manner in connection with the Protected Goods and Services, and/or related goods and services;
2. Using any mark or tradename that is a colorable imitation of or confusingly similar to the PEM Family Marks and the Six Other Trademarks in connection with the Protected Goods and Services, and/or related goods and services;
3. Publishing, circulating, distributing, selling, merchandising, or using in any manner (including digital form) any labels, signs, prints, boxes, packages, wrappers, receptacles, advertisements, posters, brochures, handbills, catalogs, publicity releases, magazines, stationary, newspapers, booklets, books, pamphlets, photographs, films, audio recordings, video recordings, T-shirts, and any other items in the possession and/or control of Defendants containing the PEMCO Infringing Marks or Six Other Infringing Marks, or any other mark or tradename that is a colorable imitation of the PEM Family Marks and Six Other Trademarks;
4. Using the PEMCO Infringing Marks or Six Other Infringing Marks as a metatag, hyperlink, portal keyword, searchable text, or other item associated with any Website including:
(1) www.pemcohardware.com; (2) www.pemcomfg.com; (3) www.pemku.com; (4)

www.pemcofastening.en.china.cn, or in any manner in connection with any of Defendants' websites;

AND IT IS FURTHER ORDERED that:

5. Defendants shall provide PennEngineering, within five days of the date of this Order becoming effective, evidence showing the change made to each page of any of the Defendants' websites;

6. Defendants shall, within five days of the date of this Order becoming effective, contact each search engine identified in Schedule E and instruct each search engine to delete the PEMCO Infringing Marks and Six Other Infringing Marks as a portal keyword, indexed word/term and/or link for any of Defendants' websites. Defendants shall provide PennEngineering, within ten days of the date of this Order becoming effective, copies of all correspondence and other evidence showing that Defendants have contacted each search engine in Schedule E in accordance with the terms of this Order;

7. Defendants shall terminate any existing and refrain from entering into any new contractual relationship with any search engine or website wherein Defendants are an advertiser, sponsored listing or sponsored link in connection with the PEMCO Infringing Marks, the Six Other Infringing Marks, the PEM Family of Marks or the Six Other Trademarks. Defendants shall provide PennEngineering, within ten days of the date of this Order becoming effective, copies of all correspondence and other evidence showing that Defendants have contacted each of said search engines or websites and has terminated its contractual relationship in accordance with the terms of this Order;

8. Defendants shall provide PennEngineering with a list of all authorized retailers, distributors, catalogs, or resellers of any kind (collectively "resellers") for its fasteners and

fastening components. Defendants shall contact each reseller and advise it regarding the terms of this Order. Further, Defendants shall immediately impose on each reseller the restrictions set forth in paragraphs 1-4 of this Order as a condition for continued authorization to resell Defendants' fasteners and fastener components. Defendants shall not advertise with or sell its fasteners and fastener components through any reseller that is not in compliance with paragraphs 1-4 of this Order.

9. Defendants shall provide PennEngineering, within two weeks of the date of this Order becoming effective, copies of all correspondence and other evidence showing the steps taken by Defendants to correct advertising in accordance with the terms of this Order, including providing to PennEngineering a listing of all media containing advertisements for its fasteners and fastener components and/or the PEMCO Infringing Marks and Six Other Infringing Marks, and each company contacted by Defendants in connection therewith;

10. Defendants shall provide PennEngineering for its review and inspection, copies of all materials, advertisements, and other media, which have been changed or created pursuant to this Order, prior to distribution of such media to the public; and,

11. Defendants shall adopt new trademarks that do not include the PEMCO Infringing Marks or the Six Other Infringing Marks, and are not otherwise confusingly similar to the PEM Family Marks and Six Other Trademarks.

Patent Infringement

AND IT IS HEREBY FURTHER ORDERED that Defendants, their respective officers, agents, servants, employees, attorneys, and any of their successors and assigns, and all persons, firms and corporations, including subsidiaries of related companies, acting in concert with Defendants, are preliminarily enjoined from:

12. Making, using, offering for sale, or selling in the United States, or importing into the United States the PEMCO Infringing Products identified in Schedule D; and,

13. Making, using, offering for sale, or selling in the United States, or importing into the United States any product that infringes any claim of the PEM Patents.

AND IT IS FURTHER ORDERED that:

14. Defendants shall send notice of this Order, including a copy of it, to all of its customers, within five working days of the day of this Order;

15. Defendants shall recall from its customers any and all unsold PEMCO Infringing Products and any and all unsold products that infringe the PEM Patents;

16. Defendants shall surrender to PennEngineering all of Defendants' inventory of PEMCO Infringing Products and any products that infringe the PEM Patents; and,

Domain Names

AND IT IS HEREBY FURTHER ORDERED that Defendants, their respective officers, agents, servants, employees, attorneys, and any of their successors and assigns, and all persons, firms and corporations, including subsidiaries of related companies, acting in concert with Defendants, are preliminarily enjoined from:

17. Using the following domain names in any manner in connection with any of Defendants' websites: (1) www.pemcohardware.com; (2) www.pemcomfg.com; (3) www.pemku.com; and (4) www.pemcofastening.en.china.cn. (the "Infringing Domain Names");

18. Using any domain name that is a colorable imitation of or confusingly similar to the PEM Family Marks and the Six Other Trademarks in connection the Protected Goods and Services, and/or related goods and services;

19. Using the PEM Family of Marks and Six Other Trademarks within a domain name, domain name extension, as metatag or other marker within website source code, on any webpage (including as the title of any web page), as an advertising link to other websites, in any search engine database or cache memory, or in any other form of use which is visible to a computer user or serves to direct computer searches to websites registered by, owned, or operated by any of the Defendants, including the Internet websites operating under the Infringing Domain Names;

AND IT IS FURTHER ORDERED that:

20. Each Defendant shall not transfer ownership of the Infringing Domain Names during the pendency of this Action, or until further Order of the Court;

21. The domain name Registrars for the Infringing Domain Names are directed to transfer to Plaintiff's counsel, for deposit with this Court, domain name certificates for the Infringing Domain Names;

22. Upon Plaintiff's request, the privacy protection service for any of the Infringing Domain Names for which the registrant uses such privacy protection service to conceal the registrant's identity and contact information are ordered to disclose to Plaintiff the true identities and contact information of those registrants;

23. Upon entry of this Order, Plaintiff shall provide a copy of the Order by e-mail to the registrar of record for each of the Infringing Domain Names. Upon receipt of this Order, the registrar of record of each of the Infringing Domain Names shall immediately lock each of the Infringing Domain Names; shall notify, each registrant of record of the Order; and shall provide notice of the locking of the domain name to the registrant of record. After providing such notice to the registrars so the domain names may be locked, Plaintiff shall also provide notice and a

copy of this Order to the registrant for each Infringing Domain Name via e-mail to the e-mail address provided as part of the domain registration data for each of the Infringing Domain Names. If an e-mail address was not provided as part of the domain registration data for an Infringing Domain Name, Plaintiff shall provide notice and a copy of this Order to the operators of the Internet websites via an onsite e-mail address and/or online submission form provided on the Internet websites operating under such Infringing Domain Names;

24. The domain name registrars for the Infringing Domain Names shall immediately assist in changing the registrar of record for the Infringing Domain Names to a holding account with a registrar of Plaintiff's choosing (the "New Registrar"). To the extent the registrars do not assist in changing the registrars of record for the domains under their respective control within one (1) business day of receipt of this Order, the top-level domain (TLD) registries for the Infringing Domain Names, or their administrators, including backend registry operators or administrators, within five (5) business days of receipt of this Order, shall change, or assist in changing, the registrar of record for the Infringing Domain Names to a holding account with the New Registrar. Upon the change of the registrar of record for the Infringing Domain Names, the New Registrar will maintain access to the Infringing Domain Names in trust for the Court during the pendency of this action. Additionally, the New Registrar shall immediately institute a temporary 302 domain name redirection which will automatically redirect any visitor to the Infringing Domain Names to a Uniform Resource Locator ("URL") at <http://servingnotice.com> whereon copies of the Complaint and all other documents on file in this action are displayed. Alternatively, the New Registrar may update the Domain Name System ("DNS") data it maintains for the Infringing Domain Names, which link the domain names to the IP addresses where their associated websites are hosted, to NS1.MEDIATEMPLE.NET and

NS2.MEDIATEMPLE.NET, which will cause the domain names to resolve to the website where copies of the Complaint, this Order, and all other documents on file in this action are displayed. After the New Registrar has effected this change, the Infringing Domain Names shall be placed on lock status, preventing modification or deletion of the domains by the New Registrar or Defendants;

25. As a matter of law, this Order shall no longer apply to any Defendant or associated domain name dismissed from this action or as to which Plaintiff has withdrawn its Motion for Preliminary Injunction;

26. Plaintiff may enter the Infringing Domain Names into Google's Webmaster Tools and cancel any redirection of the domains that have been entered there by Defendants, which redirect traffic to the infringing websites to a new domain name or website and thereby evade the provisions of this Order;

27. Each Defendant shall preserve copies of all computer files relating to the use of any of the Infringing Domain Names and shall take all steps necessary to retrieve computer files relating to the use of the Infringing Domain Names that may have been deleted before the entry of this Order;

28. This Permanent Injunction Order shall apply to the Infringing Domain Names, associated websites, and any other domain names and websites properly brought to the Court's attention and verified by sworn affidavit that such new domain names are being used by Defendants for the purpose of infringing or counterfeiting the PEM Family of Marks and Six Other Trademarks at issue in this action and/or unfairly competing with Plaintiff on the World Wide Web;





29. Defendants shall file a written report with the Court that details Defendants' compliance with all provisions in this Order within 30 days after the date of this Order.


This Preliminary Injunction Order shall become effective immediately without any bonding requirement.

Dated: _____

Honorable Gerald J. Pappert
United States District Judge

Schedule A
PennEngineering's PEM Family of Marks

Mark	Registration Number	Registration Date	Incontestability Date	Goods & Services
PEM	732,947	6/19/1962	10/25/1984	Drill bushings and self-clinching nuts, fasteners, studs and stand-offs
PEM	1,177,822	11/17/1981	8/3/1987	Broaching-type captive fasteners-namely, broaching-type captive fasteners with internal threads, broaching-type captive standoffs with and without internal threads, broaching-type captive solder terminals, broaching-type captive studs, broaching-type captive panel fasteners and metallic inserts.
PEM	1,403,759	8/5/1986	8/12/1991	Metal fasteners
PEM	2,758,505	9/2/2003	9/2/2009	Panel fasteners, namely self-clinching, snap-in floating and hybrid panel fasteners
	889,244	4/14/1970	4/14/2010	Self-clinching fasteners, self-locating weld fasteners, and self-clinching drill bushings
	1,043,967	7/20/1976	11/9/1981	Presses for installing fasteners or the like and also for parts of said presses
	1,092,108	7/25/1983	5/30/2015	Panel fastener assemblies and spring loaded plunger assemblies
	1,113,034	2/13/1979	4/23/1984	Electrical terminals and electrical grounding stand-offs



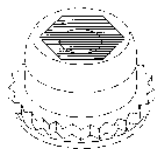
	4,331,371	5/7/2013	n/a	Fasteners made of metal, namely, nuts, weld nuts, studs, pins, standoffs, rivets and inserts, cable-tie mounts and hooks for sheet metal; self-clinching panel fasteners made of metal or mostly of metal; panel fasteners and panel fastener assemblies made of metal or mostly of metal; sheet-metal fasteners made of metal; fasteners made of metal or mostly of metal for mounting into printed circuit boards; micro fasteners made of metal for use in the consumer electronics industry
PEMFLEX	937,397	7/11/1972	7/11/2012	Fasteners, i.e., nuts
PEMHEX	781,236	12/8/1964	12/8/2004	Fasteners
PEMSERT	883,650	1/6/1970	1/6/2010	Inserts
PEMSERTER	1,365,248	10/15/1985	6/3/1991	Power-operated presses for installing fastener
PEMSERTER MICRO-MATE	1,433,571	3/24/1987	7/2/1992	Non-powered hand presses for punching holes and installing fasteners for use in sheet metal
PEMSERTER and triangle composite	3,567,528	1/27/2009	2/9/2015	Power-operated presses for installing fasteners
PEM SP	3,270,807	7/31/2007	8/5/2013	Metal fasteners
PEM300	1,444,862	6/30/1987	10/20/1992	Sheet Metal Fasteners
AUTOPEM	4,296,186	2/26/2013	n/a	Metal fasteners, namely, nuts, bolts, screws, rivets, standoffs, clinching fasteners; metal threaded fasteners

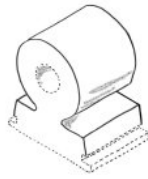

MICROPEM	4,250,883	11/27/2012	n/a	Metal fasteners, namely, nuts, bolts, screws, rivets, standoffs, clinching fasteners; metal threaded fasteners
AEROPEM	4,298,838	3/5/2013	n/a	Metal fasteners, namely, nuts, bolts, screws, rivets, standoffs, clinching fasteners; metal threaded fasteners

Schedule B
PennEngineering's Six Other Trademarks

Mark	Registration Number	Registration Date	Incontestability Date	Goods & Services
The "Blue Locking Element Mark"	1,449,260	7/28/1987	10/30/1992	Self-clinching locking nuts
The "Shoulder Flare Mark"	4,037,181	10/11/2011	n/a	Metal threaded fasteners, namely, panel fasteners with heads of metal and panel fasteners with heads of metal and plastic
The "Pedestal Mark"	4,293,597	2/19/2013	n/a	Metal fasteners, namely, clinch fastener for mounting two sheets or panels in perpendicular orientation
SNAPTOP	1,418,142	11/25/1986	4/2/1992	Metal fasteners used to separate and hold printed circuit boards
SPOTFAST	3,341,727	11/20/2007	9/30/2013	Metal fasteners, namely, a clinch-attached stud for joining two metal sheets
REELFAST	3,002,446	9/27/2005	11/8/2011	Metal fasteners supplied on tape reels for surface mounting to circuit boards

Schedule C
Defendants' PEMCO Infringing Marks and Six Other Infringing Marks

PennEngineering's Registered Mark	Registration Number(s)	Defendants' Infringing Mark(s) and Domain Names
PEM PEM Family of Marks	732,947 1,177,822 1,403,759 2,758,505 781,236 883,650 889,244 1,043,967 1,092,108 1,113,034 4,331,371 937,397 1,365,248 1,433,571 1,444,862 3,270,807 3,567,528 4,296,186 4,250,883 4,298,838	PEMCO – Exhibit 15 PEMCO HARDWARE, INC – Exhibit 15 PEMCO FASTENING SYSTEMS – Exhibit 15 PEMKU – Exhibit 16 SHENZHEN PEMCO FASTENING SYSTEM CO, LTD. – Exhibit 18 DONGGUAN CITY FENGANG PEMCO HARDWARE FACTORY – Exhibit 16 MICROPEM – Exhibit 26 www.pemcohardware.com – Exhibit 15 www.pemcomfg.com – Exhibit 16 www.pemku.com – Exhibit 17 www.pemcofastening.en.china.cn – Exhibit 18
The “Shoulder Flare Mark” 	4,037,181 	Exhibit 19 Used on PK11, PK12 panel fastener
The “Blue Locking Element Mark” 	1,449,260 	Exhibit 20 Used on PL and PLC hex nylon-inserted nuts

The "Pedestal Mark"	4,293,597	  <p>Exhibit 21 Used on Type RA and RAS steel threaded right angle fastener</p>
SPOTFAST	3,341,727	SPOTFAST – Exhibit 22
SNAPTOP	1,418,142	SNAP-TOP – Exhibit 23
REELFAST	3,002,446	REELFAST – Used on SMT panel fasteners Exhibit 29

Schedule D
PennEngineering's Patents and
Defendants' Infringing Products

Penn Engineering's Patent No.	Pemco Hardware Infringing Product Name	Exhibit No. Showing Infringing Product
7,374,381	Type SF Spotfast Fasteners	25
8,297,899	Type T microPEM Tackpin Fasteners	26
D461,705	Type TDO Self Clinching Cable Tie Hooks	27
5,810,501	RAA Aluminum Self-Taping Right Angle Fastener	28
7,213,321	Reelfast SMT Fastener	29

Schedule E
Search Engines

20SEARCH
ACCLAIM SEARCH
ALIWEB
ALL THE WEB
ALTAVISTA
AMNESI
AOL
ASK
DOGPILE
EBAY
EXCITE
GIGABLAST
GOOGLE
GO
HOTBOT
INFO HIWAY
IWON
LINK CENTRE
LINKS2GO
LYCOS
MAMMA
MSN
NETSCAPE
SCRUB THE WEB
SEARCH.COM
SNAP
WEBCRAWLER
WHAT-U-SEEK
YAHOO

Any other search engine known by Defendants

CERTIFICATE OF SERVICE

I, Joseph M. Konieczny, Sr., hereby certify that on the date set forth below a copy of the foregoing document entitled Revised Proposed Preliminary Injunction Order were served via first-class, postage-prepaid mail to the following:

Pemco Hardware, Inc.
Dongguan Fenggang Pemco Hardware Factory
Shenzhen Pemco Fastening Systems, Co. Ltd.
1122 Cleghorn Drive
Diamond Bar, CA 91765

Courtesy copies of said documents were also served via first-class, postage mail and via overnight courier to the following:

Dongguan Fenggang Pemco Hardware Factory
2nd Floor of Building A, Jinpeng Industrial Park
#96 Jincheng Road, Jingfenghuang Industrial Zone
Fenggang Town, Dongguan City, Guangdong Province
P.R. China 523688

Shenzhen Pemco Fastening Systems, Co. Ltd.
5th Floor of 20th Building, Quangpian Industrial Zone
Taoyuan Street, Xili Town, Nanshan District, Shenzhen
P.R. China

Date: March 8, 2016

/s/ Joseph M. Konieczny, Sr.